

January 19, 2012

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JANUARY 19, 2012

STATE OF NEBRASKA)
)
 COUNTY OF BOX BUTTE) §
)
 CITY OF ALLIANCE)

The Alliance City Council met in a Regular Meeting, January 19, 2012 at 7:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on January 12, 2012. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Mayor Feldges opened the January 19, 2012 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members Yeager, Benzel, Gonzalez and Seiler. Also present were City Manager Cox, Interim City Attorney Olsen and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- Allen Lorensen was introduced as the new Firefighter/EMT.
- The first item on Council’s agenda was the Consent Calendar.

Motion by Councilman Benzel, seconded by Councilman Seiler to approve the Consent Calendar, which follows in its entirety:

CONSENT CALENDAR – JANUARY 19, 2012

1. Approval: Minutes of the Regular Meeting, January 5, 2012.
2. Approval: Payroll and Employer Taxes for the period December 24, 2011 through January 6, 2012 inclusive: \$182,562.41 and \$12,971.85 respectively.

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3. Approval: Claims against the following funds for the period December 29, 2011, through January 12, 2012: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S. V.P., Keno and Capital Improvement; \$884,644.68.
4. Approval: To use the alliance Area Fire/Emergency Center and serve alcohol for the Annual Bosses Night to be held on Friday, February 3, 2012; and Resolution No. 12-05 granting a Special Designated License to the Alliance Volunteer Fire Department for their annual Bosses Night on February 3, 2012. A copy of the request has been included in the Council's packet.
5. Approval: The issuance of a Cemetery Certificate to Kip Reeves and Kathy Reeves; the North Half of the West Half (N ½ of the W ½) Lot Two (2), Section Five (5), Block Eighteen (18), Third Addition to the Alliance Cemetery.
6. Approval: Issuance of the following Tree Surgeon's Licenses:

Howard E. Jensen dba J & C Lawn Service
Heather Hauptman dba All Seasons Landscaping
Glenn Patrone dba Patrone's Landscaping & Tree Care
Bob Malone dba Pests Go, LLC

NOTE: City Manager Cox has reviewed these expenditures and to the best of his knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Mayor Feldges made an inquiry regarding the purchase of fire hose. Fire Chief Shoemaker reported he was in the process of replacing equipment which is outdated and/or needs upgraded. Councilman Gonzalez asked what was purchased from NMC Exchange LLC within the Electric Department. City Manager Cox responded it was preventative maintenance on electric equipment.

Roll call vote with the following results:

Voting Aye: Feldges, Yeager, Benzel, Gonzalez, Seiler.

Voting Nay: None.

Motion carried.

- The next item before Council was the presentation of a proclamation for National Catholic Schools Week.

Councilman Yeager read the proclamation, which follows in its entirety:

PROCLAMATION
National Catholic Schools Week

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WHEREAS, The Week of January 29, 2012 is National Catholic Schools Week; and

WHEREAS, St. Agnes Academy has been part of Nebraska since September 8, 1908, and therefore, has been part of our community for over 100 years, and St. Agnes Academy has helped to make our town a loving community; and;

WHEREAS, St. Agnes prepares its students not only with fine academic training, but also with spiritual values that will make them good citizens able to contribute to their community and become the leaders of the future;

NOW, THEREFORE, Be it resolved that the City Council of the City of Alliance, Nebraska, does hereby proclaim the week of January 29, 2012 through February 5, 2012 as

CATHOLIC SCHOOLS WEEK IN ALLIANCE NEBRASKA

The proclamation was presented to students of St. Agnes Academy.

- City Manager J.D. Cox gave his report to Council, which follows in outline form:
 - Within the Parks Department the geese harassment has been successful and staff is remaining diligent with the process.
 - The wayfinding signage program is still progressing. A letter has been sent to NDOR covering (a) trouble accepting Carhenge and Veteran's Cemetery, (b) NDOR researching "urbanized", (c) requesting permission for signage on State Hwys. 2, 87 and 385, and (d) requesting NDOR place large "brown" signs on I-80.
 - Staffing issues include a new advertisement for the Landfill Operator Baler Clerk, and two positions Public Safety Dispatcher and Animal Control Officer in the application review process.
 - Eric will present an update on street projects and a review of the One and Six Year Street Improvement Plan at our next meeting.
 - Engineering bids have been received for two major street projects: Streetscape Lighting and the 10th Street Sidewalk/Trail.
 - The Airport ARFF Building is approximately 40% complete and bunker gear has been ordered.
 - Airport Manager Placek will be attending the Nebraska Aviation Symposium Conference in Kearney next week. Goal planning for the two volunteer Airport groups will take place in February.
 - Currently staff is inspecting all of the buildings on the airport property with the renters signing off on the condition of the facility. All airport leases have been copied and scanned.
 - The Fire Department is currently building a portable burn structure for training purposes which can be seen on the corner of 3rd Street and Cheyenne Avenue. Bosses Night will be February 3, 2012.
 - Our new firm providing legal services has been kept very busy with over 35 issues.
 - The City has been experience a large number of telecommunication problems recently.

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- There were remaining funds from the Sleuth Grant which is allowing the City to purchase replacement radios for both the Police and Fire Departments, and as a result, their existing radios will be available to other departments throughout the organization resulting in an additional \$19,000 savings.
- The Re-codification Grant is in process and the Municipal Code Corporation has informed us that a draft should be expected within two weeks.
- The City is working with Alliance Public Schools on a Mutual Aid/Cooperation Agreement which will include snow removal, cooperative purchasing, landscaping, and paint purchases and painting. Currently the schools have agreed to remove snow at the library (steps and sidewalk), with the City sweeping the high school parking lot.
- The West Plains Grain Project continues. The County has not begun the road work and has questions regarding TIF. The City continues to meet with West Plains Grain officials and working on the legalities of the request.
- Service Excellence training begins January 31st. Council is encouraged to attend, especially during the 8:30 a.m. to noon session.
- Upcoming agenda items were listed:

2/2:

- Eric: Street report, including preparing for 1 & 6 Year Plan
- Vitalix Resolution (2 options) – roof issue
- PD Renovations (511 Niobrara)/Phone System Integration
- Logo/Brand Change

2/16:

- Lien Ledger Policy (Feb)
- 1 & 6 Year Street Plan
- Commercial Sales (food, etc) in Parks
- Discussion of Traffic around Fountain
- Fireworks Discharge on City Property
- Engineering Selection:
- City Engineering Services
- 10th Street Reconstruction & Trail
- Streetscape
- Vehicle:

- Electric Pickup
- Water Pickup
- Parks Pickup
- Fleet Travel Vehicle

March:

- Interlocal Agreement with Schools
- Streets 1 & 6 Year Plan
- Library Policies (Feb)
- Purchasing Card Policy
- Update MOU with Box Butte County LEC (Feb/March)
- Cemetery/Parks Mower Bid

- Calendar Recap:

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January 14 (Sat) @ 6pm Employee Appreciation Dinner – Newberry’s
January 14 (Sat) @ 7pm Kayla Batt – 2012 Miss Congeniality

- The next item for Council’s consideration was Resolution No. 12-06, authorizing an Agreement for the Sale of Real Estate to Shaun Houchin. Council will also consider Ordinance No. 2696, which is before Council on first reading. City Manager Cox provided the following background information:

[I am very pleased to report that Shaun Houchin is interested in building additional housing in Alliance! Last week, he came to meet with me to ask my opinion of what is needed in the community. I shared with him that I believed, having personally gone through the move to Alliance last year, and also as a member of the BBDC housing task force, that in addition to conventional single family homes, we are also in need of what might be termed “transitional housing.” Transitional housing refers to housing such as apartments, duplexes, multi-plexes, etc., where one can rent for a period until such time as being ready to purchase housing.

A great concern at present is that as the BNSF Railroad continues to hire, that there may not be adequate short-term and long-term housing in Alliance, and therefore we may lose new families.

Shaun indicated a strong interest in short-term housing, and may be pursuing in the near future. In the meantime, he would like to begin construction on two new houses in the Lakefield Addition in Alliance as soon as possible. Proposed is the sale of Lots #3 and #11. A map of this area has been included. The purchase amounts for these two lots are \$4,400 and \$4,000 respectively, for a total sale price of \$8,400.

With the sale of this publicly-owned land, in Nebraska there is a required remonstrance period whereby, *“Notice of such sale and the terms thereof shall be published for three consecutive weeks in a legal newspaper published in or of general circulation in such city immediately after the passage and publication of such ordinance.”* If, within thirty days after the passage and publication of this ordinance, a remonstrance petition is signed by at least 30% of the registered voters of the City of Alliance, then the City cannot sell the property for at least one year.

As there is a 30-day remonstrance period, we have asked Shaun to signoff on an addendum to the agreement whereby he acknowledges the remonstrance period and also that should a remonstrance be successful, Shaun agrees to remove his personal property and restore the land to its previous condition.

Council may wish to consider waiving the additional two readings so that the sale and construction can be expedited.]

Motion by Councilman Benzel, seconded by Councilman Gonzalez to approve Resolution No. 12-06, which follows in its entirety:

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RESOLUTION NO. 12-06

WHEREAS, The City of Alliance owns numerous residential lots within the City; and

WHEREAS, An Agreement for the Sale of Real Estate has been prepared for Shaun Houchin to purchase Lot 3 and Lot 11, Block 5, Lakefield Addition, an Addition to the City of Alliance, Box Butte County, Nebraska; and

WHEREAS, The City Council established a Uniform Pricing Schedule for the sale of residential lots with the passage of Resolution No. 07-23, and the proposed Agreement for the Sale of Real Estate reflects the proper pricing.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the City is hereby authorized to enter into an Agreement with Shaun Houchin for the purchase of Lot 3 and Lot 11, Block 5, Lakefield Addition, an Addition to the City of Alliance, Box Butte County, Nebraska.

BE IT FURTHER RESOLVED, that the Mayor is authorized to enter into the Agreement for the Sale of Real Estate in the amount of Eight Thousand no/100^{ths} Dollars (\$8,400.00).

Roll call vote with the following results:

Voting Aye: Feldges, Yeager, Benzel, Gonzalez, Seiler.

Voting Nay: None.

Motion carried.

A motion was made by Councilman Benzel to approve the first reading of Ordinance No. 2696. Councilman Gonzalez seconded the motion and City Clerk Jines read the Ordinance by title which follows in its entirety:

ORDINANCE NO. 2696

AN ORDINANCE PROVIDING FOR THE SALE AND CONVEYANCE OF LOT 3, BLOCK 5; AND LOT 11, BLOCK 5; LAKEFIELD ADDITION, AN ADDITION TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA, ACCORDING TO THE RECORDED PLAT THEREOF.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1. The City of Alliance has received an offer from Shaun Houchin, to purchase the following described real estate:

Lot 3, Block 5, Lakefield Addition, an Addition to the City of Alliance, Box Butte County, Nebraska, in the amount of \$4,400.00.

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Lot 11, Block 5, Lakefield Addition, an Addition to the City of Alliance, Box Butte County, Nebraska, in the amount of \$4,000.00.

SECTION 2. The real estate is not used in the operation of public utilities, and is not a state armory for the use of the State of Nebraska or the State Armory, as provided in §16-201 R.R.S. Neb. 1943.

SECTION 3. The City Clerk shall cause notice of this sale to be published as required by law. If, within the time prescribed by law, a legally sufficient remonstrance against the sale has not been filed, the Mayor and City Clerk are by this ordinance authorized to execute and deliver to the purchaser the City's quitclaim deed for the herein described property upon payment of the purchase price provided for herein and in the Agreement for Sale of Real Estate.

Remonstrance against such sale is defined as a petition signed by legal electors of Alliance, Nebraska, equal in number to thirty percent (30%) of the electors voting at the last regular municipal election. Said petition shall be filed with the governing body of the City within thirty days (30) of the passage and publication of this Ordinance. In the event a remonstrance is received which is legally sufficient, said property shall not then, nor within one year thereafter, be sold.

SECTION 4. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

A motion to waive the statutory rules requiring reading of Ordinance No. 2696 on three different dates be suspended was made by Councilman Benzel, which was seconded by Councilman Gonzalez.

Roll call vote to waive the statutory reading with the following results:

Voting Aye: Feldges, Yeager, Benzel, Gonzalez, Seiler.

Voting Nay: None.

Mayor Feldges announced five votes in favor of the motion have been received. That being more than three fourths of the Council present, the motion was declared passed.

Roll call vote to approve Ordinance No. 2696 on final reading with the following results:

Voting Aye: Feldges, Yeager, Benzel, Gonzalez, Seiler.

Voting Nay: None.

Motion carried.

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Mayor Feldges stated, “the passage and adoption of Ordinance No. 2696 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Ordinance No. 2695 amending the Municipal Code to change the regulations regarding the construction of garages and other off-street parking structures located in residential districts was the next matter before Council. This is the third reading of said Ordinance. City Manager J.D. Cox provided the following background information:

[At the January 5 Council meeting, the matter concerning garages was advanced to its third reading. The information from the previous Council narratives has been included further below for your convenience.

(Markup Version as Proposed by Planning Commission)

One detached garage **or other accessory off-street parking structures located in R1 through R5 shall be** located in the rear **or side** yards. ~~Total floor space of all attached and detached garages shall not exceed 2,000 square feet. Garages and other accessory off-street parking structures located in all residential districts shall not be of greater square footage or height than the principal residence, and shall be constructed of similar materials and colors and be in character and scale with existing neighborhood construction.~~ **The garage or accessory off street parking structure and the the principal residence must have the same roof pitch, matching colors, matching shingles and matching siding.**

(Final Proposed by Planning Commission)

One detached garage or other accessory off-street parking structures located in R1 through R5 shall be located in the rear or side yards. The garage or accessory off street parking structure and the principal residence must have the same roof pitch, matching colors, matching shingles and matching siding.

Second Reading – January 4, 2012:

Measure was approved and advanced without change.

First Reading – December 15, 2011:

At the Council meeting on December 15, a public hearing and first reading of Ordinance was approved. In agreement with the Planning Commission recommendation (Josh Carr & Wayne Davis spoke in favor), Council approved and unanimously advanced the Ordinance without change to the second reading.

Below is the information presented in the previous packet:

Earlier this year, strong concern in the community was raised concerning a large 30x50 garage that was permitted and subsequently built on 21st Street. Although our Code had been in place for a number of years, it was felt by many in the community that the permitting of this construction represented a new interpretation of our existing Code. Summary of the concerns:

1. Size of all garages not more than 2000 square feet;

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2. Size of any accessory building not exceed size of primary residence;
3. Height of garages not exceed height of primary residence;
4. Pitch of the roof;
5. Character of the neighborhood.

At the center of the concern was the interpretation of 10-306.02, Section 2b:

*“One detached garage located in the rear yard. Total floor space of all attached and detached garages shall **not exceed 2,000 square feet**. Garages and other accessory off-street parking structures located in all residential districts shall not be of greater square footage or height than the principal residence and shall be constructed of similar materials and colors and be in character and scale with existing neighborhood construction.”*

Planning Commission Recommendation:

The Planning Commission voted unanimously to recommend removing garage size limitations (as long as the total lot coverage does not exceed forty percent). According to the minutes, the consensus of the Commission was that coverage of the lot with buildings shouldn't be more than 40% and the height should not exceed 35 feet.

There are reasons cited, such as:

- Making Alliance similar to (“most”) other cities in Nebraska; and
- Encouraging economic development.
- Encourage building within the City of Alliance; and
- Not encouraging people to live outside the City “to be able to build the garages they want.”

Last week, we received an email from Christopher Mischnick expressing concerns with the proposed ordinance as it currently stands. Mr. Mischnick is not anticipating being present, but it is possible that other contractors may be present to share similar concerns. Following are the concerns expressed by Mr. Mischnick:

1. *What if the siding on the primary residence is no longer available? Such as asbestos siding. I am aware that a newer product is available but only in the color white.*
[Staff Comment: If this new ordinance is passed, there are no provisions for the possibilities that the siding or color is no longer available. There needs to a remedy for the citizen to appeal to someone for that possibility]
2. *What if different walls on the primary residence have different exterior finishes, such as one wall brick and the others siding, which wall is to be matched?*
[Staff Comment: If a structure has different finishes and colors, there would be no provisions for someone to determine which one can be chosen. Council may wish to consider allowing for there to be someone able to make that decision.]
3. *Also would like council to consider the monetary burden this could impose on a homeowner particularly regarding brick. Brickwork is locally going for between \$12 to \$15 per square foot as compared to siding which is going for between \$4 to \$8 per square foot. So on a 25'x25'x9' garage if the homeowner is forced to*

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use brick the cost could be as much as \$7,200 higher than if allowed to use a similar colored siding.

[Staff Comment: The cost burden may be a consideration for the community as a whole. Some citizens may not be able to financially afford to meet the new code requirements or may be forced to postpone the construction.]

4. *If exceptions to this ordinance are to be allowed, as I've described above, who will be the official to grant the exceptions?*

[Staff Comment: Council may wish to provide for provisions in the new ordinance for the granting of exceptions to any issues that a citizen might have with the new ordinance. There should be some avenue for them to take.]

With these items in mind, it is difficult for me to recommend to Council that this item be moved forward. Instead, a better function may be to remand the matter to the Planning Commission for reconsideration and further recommendation.]

Motion by Councilman Gonzalez, seconded by Councilman Benzel to approve Ordinance No. 2695 on third reading. City Clerk Jines read the Ordinance by title which follows in its entirety:

ORDINANCE NO. 2695

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE AT CHAPTER 10, ARTICLE 2, SECTION 201 AND CHAPTER 10, ARTICLE 3, SECTIONS 305.02, 306.02, 307.02, AND 310.02, REGARDING THE DEFINITION OF HEIGHT OF BUILDINGS OR STRUCTURES AND GARAGES OR OTHER ACCESSORY OFF-STREET PARKING STRUCTURES, REPEALING EXISTING PROVISIONS OF CITY CODE NOT CONSISTENT HEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1. Section 10-201 of the Alliance Municipal Code is amended to provide as follows:

10-201. DEFINITIONS

For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural; and words in the plural include the singular; the word "building" includes the word "structure"; the word "shall" or the word "must" is mandatory and not directory; the term "used for" includes the meaning "designed for" or "intended for".

1. "Accessory Building": A subordinate building having a use customarily incident to and located on the lot occupied by the main building, or having a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of

the main building when it has any part of a wall in common with the main building or is under an extension of the main roof, and designed as an integral part of the main building.

2. "Accessory Use": A use of a building or land which is customarily incidental to, and located on the same lot or premises as the main use of the property.
3. "Activity": The performance of a function or operation which constitutes a use of the land.
4. "Agriculture": The employment of the land for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and by the grazing, feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honey bees, and by dairying and the sale of dairy products.
5. "Alley": A minor way which is used primarily for utility services and vehicular service access to the back or side of properties otherwise abutting on or adjacent to a street; affording only a secondary means of access to abutting property.
6. "Alteration": Any addition, removal, extension or change in the location of any exterior wall of a main building or accessory building.
7. "Animal Unit": For purposes of this ordinance, an animal unit is the term used to describe the relationship of various animals that are being held or fed. Slaughter steers and heifers are assigned the base unit of 1.0. The following multipliers are used in determining animal units:

| <u>Category</u> | <u>Animal Units</u> |
|------------------------------|---------------------|
| Slaughter steers and heifers | 1.0 |
| Cow-Calf | 1.3 |
| Dairy cattle | 1.4 |
| Horse | 0.75 |
| Swine | 0.4 |
| Sheep | 0.4 |
| All fowl | 0.05 |

8. "Apartment": A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.
9. "Apartment House": A building arranged, intended, or designed for residence of more than two families.
10. "Apartment Hotel": An apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.
11. "Basement": A story below the first story as defined under "Story", counted as a story for height regulations if subdivided and used for dwelling purposes other than by a janitor or watchman employed on the premises.
12. "Block": A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Building Inspector shall determine the outline of the block.
13. "Boarding House or Lodging House": A building other than a hotel, occupied as a single-housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

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14. “Building”: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building except that two buildings connected by a breezeway shall be deemed one building.

15. “Club, Private”: A building or premises used for social, recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons

16. “Condominium”: The individual fee ownership of a defined space or dwelling unit within a multi-unit structure.

17. “Contributing Floor Area”: The total floor area designed for tenant occupancy and exclusive use; including basements, mezzanines, and upper floors, if any, but excluding stairways, restrooms and mechanical equipment rooms, expressed in square feet measured from the centerline of joint partitions, and from the exterior surface of outside walls.

18. “Court”: An open, unoccupied space, other than a yard, bounded on three or more sides by exterior walls of a building and lot lines on which walls are allowable.

19. “Curb Level”: The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.

20. “Drive-In Establishment”: Any restaurant, financial institution or product vending enterprise where the patron does not enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building, or where facilities are provided for eating outside a building, shall be included in this definition

21. “Dwelling”: A building or portion thereof, designed exclusively for permanent residential occupancy, including one-family, two-family and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, and manufactured houses but not hotels, motels, mobile homes, house trailers or recreational vehicles.

22. “Dwelling, One-Family”: A detached building, arranged, intended, or designed for occupancy by one family.

23. “Dwelling, Two-Family”: A building arranged, intended or designed for occupancy by two families.

24. “Dwelling, Multiple”: A building or portion thereof, arranged, intended or designed for occupancy by three or more families, including apartments houses, row houses, townhouses and apartment hotels.

25. “Facility”: A facility is a structure, open area, or other physical contrivance or object.

26. “Family”: Throughout this ordinance the word family when applied to any R-1 zoned area shall be defined as follows:

One (1) or more persons related by blood, adoption, or marriage, except persons placed with persons in a home licensed by the State Department of Health and Human Services, living together and occupying a single housekeeping unit with single kitchen facilities, or a number of persons but not exceeding two (2) who are not related by blood, adoption or marriage, except persons placed with persons in a home licensed by the State Department of Health and Human Services, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities.

Throughout this ordinance, the word family as it applies to all zoned areas except R-1 shall be defined as follows:

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One (1) or more persons who are related by blood, adoption, or marriage, except persons placed with persons in a home licensed by the State Department of Health and Human Services, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (5) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit cost-sharing basis.

27. "Farm/Ranch": An area of land containing at least ten contiguous acres which are used for agriculture.

28. "Feed Lot": A lot, yard, corral, building or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter or the sale of products derived from such animals. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze.

29. "Floor Area": The total of the horizontal area of all floors including basements and cellars, below the roof and within the surfaces of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls.

30. "Garage, Private": An accessory building which is used primarily for the storage of motor vehicles by the tenants of the building or buildings on the premises.

31. "Garage, Repair": A building or portion thereof, designed or used for the care or repair of motor vehicles, which is operated for commercial purposes.

32. "Garage, Commercial": A building or portion thereof, designed or used for storage, sale, or hiring of motor vehicles for commercial purposes.

33. "Garage, Community": A building or portion thereof, used in lieu of private garages within a block or portion of a block.

34. "Garage, Storage": A building or portion thereof, except those defined as a private, a repair, or a community garage providing storage for more than four (4) motor vehicles.

35. "Grade": The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

36. "Group Home":

a. A facility licensed by the State of Nebraska in which at least four but not more than eight persons not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training or counseling for the purposes of adaptation to living with, or rehabilitation from cerebral palsy, autism, or mental retardation." (LB 525, 1980)

b. A residence, including an office space for shelter employees, providing food, shelter, medical care, legal assistance, personal guidance and other services to persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

37. "Height of Building or Structures": The vertical distance measured from the highest of the following three levels:

a. From the street curb level if the structure sets on the street line to the highest ridge row.

b. From the established or mean street grade in case the curb has not been constructed to the highest ridge row if the structure sets on the street line.

c. From the average finished ground level adjoining the building if it sets back from the street line; to the level of the highest point of the roof beams of flat roofs or roofs

inclining not more than one inch (1”) to the foot, or to the highest ridge row for other roofs.

38. “Height of Yard or Court”: The vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.
39. “Home Occupation”: Any occupation, activity, or accessory use of a non-residential nature conducted in a dwelling unit by a member or members of the immediate family residing therein and not employing more than one person not a resident of the dwelling. Such use must be clearly incidental and secondary to the use of the dwelling purposes.
40. “Hotel”: A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than twelve sleeping rooms and no provisions for cooking in individual rooms.
41. “Junkyard”: Any area where waste, discarded or salvaged, is bought, sold, exchanged, baled, or packed, disassembled, or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards and places or yards of storage of structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
42. “Junk, Waste, or Scrap Materials”: Old, used, second-hand, worn, or discarded manufactured materials including but not limited, to scrap iron and other metals, paper and related products, rags, rubber tires and other automotive parts, and glass bottles.
43. “Landscaping”: Includes but is not limited to trees, shrubs, ground covers, perennials, annuals, and other materials such as mulch, rocks, waterfalls, sculpture, art walls, fences underground irrigation system and street furniture.
44. “Loading Space, Off-Street”: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
45. “Lot”: A parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this Ordinance, and having its principal frontage upon a public street or approved place. A lot as used herein may consist of one or more platted lots, or tract or tracts, as conveyed, or parts thereof.
46. “Lot, Corner”: A lot abutting upon two or more streets, at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspector.
47. “Lot Coverage”: The portion of a lot that is occupied by buildings or structures, including accessory buildings and structures but not including driveways and uncovered patios at ground level.
48. “Lot, Interior”: A lot whose side lines do not abut upon any street.
49. “Lot, Through”: An interior lot having frontage on two streets.
50. “Lot in Separate Ownership at the time of the Passage of this Ordinance”: A lot the boundary lines of which along their entire length touched lands under other ownership as shown by plat or deed recorded in the office of the Register of Deeds of Box Butte County on or before the date of the adoption of this Ordinance.
51. “Lot Line”: The lines bounding a lot as defined herein.
52. “Lot Line, Front”: The boundary between a lot and the street on which it fronts.

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53. "Lot Line, Rear": The boundary line which is opposite and most distance from the front street line; except that in the case of uncertainty the Building Inspector shall determine the rear line.
54. "Lot Line, Side": Any lot boundary not a front or rear line thereof. A side line may be party line, a line bordering on an alley or place or a side street line.
55. "Lot Depth": The mean horizontal distance from the front street line to the rear line.
56. "Lot Width": The horizontal distance between side lines, measured at the front building line.
57. "Mobile Home": A movable or portable structure constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit. (LB 91-1976)
58. "Mobile Home Park": Any single, planned contiguous development, lot, area, piece, parcel or plot of ground, park or site of at least five (5) acres in area wherein ten (10) or more lots have been designated and improved, the purpose of which shall be residential mobile home. A house trailer space or mobile home space means a plot of ground within a Mobile Home Park designed for the accommodation of one mobile home, complete with a pad, all utility hookups, and sufficient off-street parking.
59. "Modular/Manufactured Housing Unit":
 - a. A factory-built structure which is to be used as a place for human habitation which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development; or
 - b. A modular housing unit as defined in Section 71-1557 bearing the seal of the Department of Health. The term "manufactured home" shall not include a mobile home.
60. "Motel": A building containing one or more sleeping rooms to be rented on a daily basis, primarily to the motoring public, together with parking area, recreation space, vending machines, but not including restaurants, clubs, or other retail sales.
61. "Motor Hotel": A building containing twenty-five (25) or more sleeping rooms for the traveling public, and including restaurant facilities, and other accessory uses.
62. "Nursing Home": Any structure used or occupied by persons recovering from illness of suffering from infirmities of old age.
63. "Non-Conforming Use, Building or Yard": A use, building or yard, which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. It is a legal non-conforming use if established prior to the passage of this Ordinance.
64. "Parking Space, Off-Street": For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.
65. "Parking Lot": An area consisting of three or more vehicle parking spaces together and access to a street or alley and permitting ingress and egress for a vehicle, provided that there shall be no storage of vehicles for the purpose of sale or resale in any residential district.

66. "Parking Lot Improvements": Includes any upgrades, alterations, additions, or reconstruction made to an off-street parking lot including drainage, curbing, digging, compacting, installation of additional parking spaces, lighting or landscaping.
67. "Parking Lot Maintenance": The upkeep and maintenance of any off-street parking lot including scraping, repacking, bringing in more gravel or rock, chipsealing, and landscaping. May also include overlaying, sealing, painting, or sweeping of hard surfaced lots.
68. "Patio": A facility or structure which is typically constructed out of concrete and located at ground level.
69. "Place": An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereon.
70. "Principal Activity": An activity which fulfills a primary function of an establishment, institution, household, or other entity.
71. "Principal Building": A main building or other facility which is designed for or occupied by a principal activity.
72. "Private Storage Unit": Leased or rented facilities for the storage of personal property, such as cars, boats, campers, other recreational equipment, furniture, or other personal property, by individuals. Storage of commercial or industrial raw materials, commodities, or products is not permitted nor is storage of salvage items or junk, or any type of hazardous material.
73. "Office Buildings": A building designed for or used as the offices of professional, commercial, industrial, religious, institutional, public or semi-public persons or organizations, provided no goods, wares or merchandise shall be prepared or sold on any premises except that a portion of an office building may be occupied and used as a drug store, barber shop, cosmetologist shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street.
74. "Recreational Vehicle": A vehicular type structure, primarily designed as temporary living quarters for travel, recreational, camping, or vacation use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-propelled. The term recreational vehicle shall include travel trailer, camping trailer, truck camper, and motor home.
75. "Sanitary Land Fill": A type of operation in which garbage and refuse or garbage or refuse is deposited by a plan on a specific portion of land, in accordance with regulations of the Nebraska Department of Environmental Quality.
76. "Signs": Any words, numerals, figures, devices, designs or trademarks by which information is made known to the public outside a building.
77. "Special Use": A special use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.
78. "Square Footage": Square footage shall be determined from the measurements on a plot plan or site plan which shall provide the dimensions of the structure or property. Such dimensions for purposes of determining square footage of structures shall be from the exterior surface of outside walls.
79. "Stable, Private": An accessory building for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.
80. "Stable, Public": A stable other than a private or riding stable as defined herein.
81. "Stable, Riding": A structure in which horses, or ponies, used exclusively for pleasure riding or driving, or housed, boarded, or kept for remuneration, hire or sale.

82. "Story": A portion of a building between the surface of any floor and the surface of the floor next above it, provided that the following shall not be deemed a story:
 - a. A basement or cellar if the finished floor level directly above is not more than six feet above the average adjoining elevation of finished grade.
 - b. An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such space.
83. "Street": A thoroughfare which affords principal means of access to property abutting thereon.
84. "Street Line": The dividing line between the dedicated street right-of-way and the abutting property line.
85. "Structure": Any facility which is constructed or erected, and which is located on the ground or is attached to something having location on the ground.
86. "Structural Alterations": Any alteration involving a change in or addition to the supporting members of a building, such as bearing walls, columns, beams or girders.
87. "Surface Material": Hard surface shall mean an all-weather surface consisting of asphalt, concrete, paving rock or brick. Gravel shall mean loose fragments of rock or pebbles. Dirt shall mean un-surfaced area free of vegetation.
88. "Townhouse": A single-family dwelling unit of two and sometimes three stories that is usually connected to a similar house by a common sidewall.
89. "Variance": Relief from a variation of the provisions of these regulations, other than Use Regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter in Powers and Duties of the Board of Adjustment.
90. "Vehicle": A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides to transport persons or property, or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy, or wagon.
91. "Yard": Open space that is unobstructed except as specifically permitted in this ordinance and that is located on the same lot as the principal building.
92. "Yard, Front": A yard the full width of the lot extending from the front line of the main building to the front line of the lot.
93. "Yard, Rear": A yard between the rear lot line and the rear line of the main building and the side lot lines.
94. "Yard, Side": A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.
95. "Porch": A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window to wall area is less than 50 percent.
96. "Landing": An area at the top or bottom of a one or more steps, or placed intermittently within a series of steps in such size and dimension as may be required by a building code.
97. "Deck": An open area, without a permanent roof, usually attached to or part of and with direct access to or from a building.
98. "Patio or Terrace": A level, landscaped and/or surfaced area directly adjacent to a principal building at or within three feet of the finished grade and not covered by a permanent roof.

99. “Nursery”: Land or greenhouses used to raise flowers, shrubs, and plants for sale. See Greenhouse.

100. “Greenhouse”: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plans for subsequent sale or for other personal enjoyment. See Nursery.

SECTION 2. Section 10-305.02 of the Alliance Municipal Code is amended to provide as follows:

10-305.02. PERFORMANCE STANDARDS

1. Area & Bulk Regulations.

| A. | Use | Minimum | Minimum | Maximum # | Setbacks | | | | Maximum | Bldg. |
|----|-----------------|----------------------|-----------|----------------|----------|---------|--------|----------|---------|------------|
| | | Lot Size (sq.ft.) | Lot Width | Dwelling Units | Front | Rear | Side | Side St. | Height | Separation |
| 1. | Dwelling (SF) | 6600 | 60 feet | 1 | 25 feet | 25 feet | 5 feet | 15 feet | (30') * | 6' |
| 2. | Accessory Bldg. | | | | 25 feet | 5 feet | 5 feet | 20 feet | | 6' |

* or a 3.5' addition to required northern or eastern side yard requirements for each vertical foot above 25'

B. Minimum Dwelling Size. 800 square feet.

C. Lot Coverage. 40% of total lot area

2. Permitted Accessory Uses.

- a. Home occupations as defined in Section 10-201(39) and provided in 10-401.
- b. One detached garage or other accessory off-street parking structures located in the rear yard. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding.
- c. Signs as permitted in Article 11.
- d. Fences as permitted in Article 9.
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See Article 10.
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.

- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed one hundred and fifty (150) square feet in size, or unenclosed areas which are accessory to a principal Nonresidential Use not exceeding two hundred (200) square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in Section 10-805.
- k. Television, radio receiving and transmitting equipment, and satellite dishes subject to the setback provisions in Section 10-805.

SECTION 3. Section 10-306.02 of the Alliance Municipal Code is amended to provide as follows:

10-306.02. PERFORMANCE STANDARDS

1. Area & Bulk Regulations.

| A. | Use | Minimum | Minimum | Maximum # | Setbacks | | | | Maximum | Bldg. |
|----|-----------------|----------------------|-----------|----------------|----------|---------|--------|----------|---------|------------|
| | | Lot Size (sq.ft.) | Lot Width | Dwelling Units | Front | Rear | Side | Side St. | Height | Separation |
| 1. | Dwelling (SF) | 7000 | 70 feet | 1 | 25 feet | 25 feet | 5 feet | 15 feet | 30' | 6' |
| 2. | Accessory Bldg. | | | | 25 feet | 5 feet | 5 feet | 20 feet | 30' | 6' |

2. Permitted Accessory Uses.

- a. Some occupations as defined in Section 10-201(39) and provided in 10-401.
- b. One detached garage or other accessory off-street parking structures located in the rear yard. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding.
- c. Signs as permitted in Article 11.
- d. Fences as permitted in Article 9.
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See Article 10.
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.

- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed one hundred and fifty (150) square feet in size, or unenclosed areas which are accessory to a principal Nonresidential Use not exceeding two hundred (200) square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in Section 10-805.
- k. Television, radio receiving and transmitting equipment, and satellite dishes subject to the setback provisions in Section 10-805.

SECTION 4. Section 10-307.02 of the Alliance Municipal Code is amended to provide as follows:

10-307.02. PERFORMANCE STANDARDS

1. Area & Bulk Regulations.

| A. | Use | Minimum | Minimum | Maximum # | Setbacks | | | | Maximum | Bldg. |
|----|-----------------|----------------------|-----------|----------------|----------|---------|--------|----------|---------|------------|
| | | Lot Size (sq.ft.) | Lot Width | Dwelling Units | Front | Rear | Side | Side St. | Height | Separation |
| 1. | Dwelling (SF) | 6600 | 60 feet | 1 | 25 feet | 25 feet | 5 feet | 15 feet | 30' * | 6' |
| 2. | Duplex | 3500 | 60 feet | 2 | 25 feet | 25 feet | 5 feet | 15 feet | 30' * | 6' |
| 3. | Accessory Bldg. | | | | 25 feet | 5 feet | 5 feet | 20 feet | 30' * | 6" |

* or a 3.5' addition to required northern or eastern side yard requirements for each vertical foot above 25', but in no case higher than 3 stories.

B. Minimum Dwelling Size. 750 square feet per unit if a two-family unit is constructed or 800 square feet if only a single-family unit is constructed.

C. Lot Coverage. 40 % of total lot area.

2. Permitted Accessory Uses.

- a. Home occupations as defined in Section 10-201(39) and provided in 10-401.
- b. One detached garage or other accessory off-street parking structures located in the rear yard. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding.
- c. Signs as permitted in Article 11.

- d. Fences as permitted in Article 9.
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed one hundred and fifty (150) square feet in size, or unenclosed areas which are accessory to a principal Nonresidential Use not exceeding two hundred (200) square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in Section 10-805.
- k. Television, radio receiving and transmitting equipment, and satellite dishes subject to the setback provisions in Section 10-805.

SECTION 5. Section 10-310.02 of the Alliance Municipal Code is amended to provide as follows:

10-310.02. PERFORMANCE STANDARDS

1. Area & Bulk Regulations.

| A. | Use | Minimum | Minimum | Maximum # | Setbacks | | | | Maximum | Bldg. |
|----|-----------------|----------------------|-----------|----------------|----------|---------|--------|----------|---------|------------|
| | | Lot Size (sq.ft.) | Lot Width | Dwelling Units | Front | Rear | Side | Side St. | Height | Separation |
| 1. | Dwelling (SF) | 7000 | (a) | 1 | 25 feet | 25 feet | 5 feet | 15 feet | 30' | 6' |
| 2. | Accessory Bldg. | | | | 25 feet | 5 feet | 5 feet | 20 feet | | 6" |

B. Minimum Lot Dimensions & Lot Exceptions

- 1. Minimum Lot Dimensions. Minimum lot dimensions in District R-5 shall be sixty (60) feet wide by one hundred thirty (130) feet deep Curvilinear platted lots shall have the minimum lot width at the front building set back line and shall contain the minimum lot area.
- 2. The Planning Commission and City Council may approve previously platted lots not meeting the minimum dimensions of this section if said lots meet the minimum set

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back requirements and the minimum lot area of seven thousand eight hundred (7,800) square feet. Such approval shall be on an individual lot basis.

- C. Minimum Dwelling Size. 1 bedroom - 570 sq.ft.
 2 bedroom - 700 sq.ft.
 3 bedroom - 850 sq.ft.
 4 bedroom - 1,020 sq.ft.

- D. The minimum mobile home width in this District shall be fourteen (14) feet.

- E. No R-5 District shall be created which contains less than five (5) acres of contiguous area.

- 2. Permitted Accessory Uses.
 - a. Home occupations as defined in Section 10-201(39) and provided in 10-401.
 - b. One detached garage or other accessory off-street parking structures located in the rear yard. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding.
 - c. Signs as permitted in Article 11.
 - d. Fences as permitted in Article 9.
 - e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See Article 10.
 - f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
 - g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
 - h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
 - i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed one hundred and fifty (150) square feet in size, or unenclosed areas which are accessory to a principal Nonresidential Use not exceeding two hundred (200) square feet in area.
 - j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in Section 10-805.
 - k. Television, radio receiving and transmitting equipment, and satellite dishes subject to the setback provisions in Section 10-805.

SECTION 6. All ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with the revisions set forth herein are hereby repealed.

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SECTION 7. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Councilman Benzel suggested Council consider changing the language to state that similar products to the primary residence could be used as there are cases where the same materials are not available.

Mayor Feldges requested Planning Commissioner Josh Carr come to the podium for questions from Council. Mr. Carr stated the Planning Commission does not have a problem with the "similar" language as long as it matches the house as much as possible. Councilman Benzel asked how other communities handle this situation and Mr. Carr stated he was not aware of what our surrounding communities required. Mr. Earl Jones, 808 Cheyenne Avenue, Chairman of the Planning Commission stated they had only researched the size of structures and not material used in construction. Mayor Feldges stated he was in favor of language which included "similar materials and color." Councilman Yeager stated he did not believe the City should regulate color.

Mayor Feldges asked City Interim Olsen what action needed to be taken to change the language within the ordinance at this point. Mr. Olsen stated Council will need to start the process over as they will be making a substantial change within the ordinance. It has been advertised twice a particular ordinance with specific language and now you are making more than a grammatical change it is a meritorious change and I believe staff needs to come back with another ordinance. Council could waive three readings at that time if they so desire. Councilman Gonzalez asked if the matter needs to be sent back to the Planning Commission. Planning Commissioner Jones stated they were in favor of the change and sending it back would only take more time.

Ken Ryan, 668 Belmont Avenue asked Council how the City would handle a situation in which the property owner would like to build or upgrade their garage and is anticipating an upgrade to the primary residence following the garage improvement. It would not make sense to match the primary residence (both siding and shingles) in this scenario. Kevin Kubo, the City's Building Inspector stated if the property owner were planning an upgrade to the primary residence at a later date it could be noted on the permit and be part of the approval process.

Mr. Kubo also discussed with Council that under the new ordinance carports will not be permissible. Council asked how the proposed new language impacted carports differently than the existing language. These will not match the primary residence.

City Manager Cox inquired of Interim Attorney Olsen if there is sufficient authority within our Code to allow our Building Inspector to make interpretations of any gray areas that exists. Mr. Olsen stated the Building Inspector has the authority to make judgment calls and that will be true regardless of what language Council selects.

Following discussion Council instructed staff they would like to see new language developed which would allow the use of similar materials when the existing materials are no longer available. Council was informed by legal counsel that this change would be substantial enough to require a new ordinance be prepared.

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Roll call vote with the following results:

Voting Aye: None.

Voting Nay: Feldges, Yeager, Benzel, Gonzalez, Seiler.

Motion failed.

- The next matter before Council for consideration was Resolution No. 12-07 establishing a policy to expend public funds for certain public purposes. City Manager J.D. Cox provided the following background information:

[The proposed resolution will provide a timely update to two measures in the current city policy with regards to payment and reimbursement of actual and necessary business expenses. The old policy has been in place for well over a decade and reflect a ceiling of \$5 for breakfast, \$7 for lunch and \$13 for dinner.

The measure will clearly authorize reimbursement of expenses for the following:

- a. Registration costs, tuition costs, fees or charges;
- b. Mileage at the rate allowed by IRS guidelines and by the State of Nebraska currently in effect at the time the travel is undertaken; and
- c. Meals and lodging at a rate not exceeding applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of such rate and such additional expenses are expressly approved by the Mayor and City Council.
- d. Meals and non-alcoholic beverages at meetings between city staff and business and community leaders, City Manager and/or staff and council members, where city business is clearly being discussed and conducted, when approved by the City Manager. Provided, however, the reimbursement or payment of actual and necessary expenditures in this regard shall not apply to the spouse or immediate family member of a public employee or public official if they are a business or community leader within the city. Provided further, the expenditures hereunder are limited to \$250.00 per month.

Recently, Council encouraged me to “get out of the office more” and it was my clear impression that Council wished to support me to have the occasional local business lunch with our business and community leaders. To this end, this measure will give clear authorization, along with a monthly cap of \$250, of that activity.]

Motion by Councilman Seiler, seconded by Councilman Gonzalez to approve Resolution No. 12-07, which follows in its entirety:

RESOLUTION NO. 12-07

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WHEREAS, A public official or public employee is not authorized to use personnel, resources, property or funds under his or her official care or control other than in accordance with prescribed statutory, constitutional or regulatory procedures;

WHEREAS, The State of Nebraska, through the Local Government Miscellaneous Expenditures Act found at Neb. Rev. Stat. §13-2201 et seq., has authorized local governing bodies to set policy, through a resolution, to expend public funds for certain public purposes;

WHEREAS, The expenditure of public funds is a vital and important duty.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska:

1. The Mayor and City Council of Alliance now adopt this uniform policy to authorize the expenditure of public funds for the payment or reimbursement of actual and necessary expenses incurred by elected and appointed officials, employees, or volunteers while at educational workshops, conferences, training programs, official functions, hearings or meetings, whether incurred within or outside the boundaries of the City of Alliance, Nebraska. The Mayor and City Council now grant their prior approval for participation or attendance in the events listed and for payment or reimbursement of actual and necessary expenses incurred. Those expenses may include the following:

- a. Registration costs, tuition costs, fees or charges;
- b. Mileage at the rate allowed by IRS guidelines and the State of Nebraska currently in effect at the time the travel is undertaken; and
- c. Meals and lodging at a rate not exceeding applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of such rate and such additional expenses are expressly approved by the Mayor and City Council.
- d. Meals and non-alcoholic beverages at meetings between city staff and business and community leaders, where city business is clearly being discussed and conducted and pre-approved by the City Manager. Provided, however, the reimbursement or payment of actual and necessary expenditures in this regard shall not apply to the spouse or immediate family member of a public employee or public official if they are a business or community leader within the City. Provided further, the expenditures hereunder are limited to \$250.00 per month.

The City Manager is granted authority to approve any exceptions provided by the employees and reported to the Mayor and City Council.

2. Authorized expenditures under this resolution and uniform policy do not include expenditures for meals of paid members of a governing body or employees provided while such members or employees are attending a public meeting of the governing body unless such meeting is a joint public meeting with one or more other governing bodies.

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3. The expenditure of public funds for non-alcoholic beverages provided to individuals attending public meetings of the governing body and non-alcoholic beverages and meals provided for any individuals provided while performing or immediately after performing relief, assistance, or support activities in emergency situations, including but not limited to, tornado, severe storm, fire or accident, shall be authorized. The expenditure of public funds for any volunteers during or immediately following their participation in any activity approved by the Mayor and City Council, including but not limited to, mowing parks, picking up litter, removing graffiti or snow removal.

4. Nothing in this resolution and uniform policy shall authorize the expenditure of public funds to pay for any expenses incurred by spouse of an elected or appointed official, employee or volunteer, unless the spouse is also an elected or appointed official, employee or volunteer of the local government.

Roll call vote with the following results:

Voting Aye: Feldges, Benzel, Gonzalez, Seiler.

Voting Nay: Yeager.

Motion carried.

- The final item on Council's agenda was a board appointment.

A motion was made by Councilman Yeager, which was seconded by Councilman Seiler, to re-appoint Maria Swenson to the Alliance Housing Authority with a term expiring December, 2016.

Roll call vote with the following results:

Voting Aye: Feldges, Yeager, Benzel, Gonzalez, Seiler.

Voting Nay: None.

Motion carried.

- Mayor Feldges stated, "there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:25 p.m."

Fred Feldges, Mayor

(SEAL)

Linda S. Jines, City Clerk